

LEGISLATIVE BILL 396

Approved by the Governor March 8, 1999

Introduced by Landis, 46

AN ACT relating to financial institutions; to amend sections 3-506, 3-616, 3-709, 8-112, 8-141, 8-143.01, 8-157.01, 8-170, 8-1,131, 8-1504, 8-1601, 8-1605, 13-1305, 18-2102.01, 21-1729, 21-1737, 21-20,162, 21-20,166, 45-101.04, 45-118, 45-121, 45-130, 45-336, 45-351, 45-702, 45-703, 45-704, 45-707, 45-708, and 46-1,141, Reissue Revised Statutes of Nebraska, and sections 8-101.01, 8-355, 8-602, and 8-1602, Revised Statutes Supplement, 1998; to change provisions relating to the deposit of public funds; to revise the power of state-chartered banks and building and loan associations; to provide notice to financial institutions about certain subpoenaed information; to change provisions relating to lending limits; to change provisions relating to extending credit to bank officers, electronic terminals and automatic teller machines, records and files, fees, acquisitions and mergers, banker's banks, shareholders' rights in dissolution, interest rates and loans, installment loan licenses, installment sales, and mortgage bankers; to authorize banks to administer certain additional individual retirement accounts in accordance with federal law; to define and redefine terms; to provide powers for the Department of Banking and Finance; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 3-506, Reissue Revised Statutes of Nebraska, is amended to read:

3-506. All income, revenue, receipts, profits, and money of an authority from whatever source derived shall be paid either to the treasurer of the city in which such authority is established as ex officio treasurer of the authority who shall not commingle such money with any other money under his or her control or to the person appointed as treasurer of the airport authority in accordance with section 3-506.01. Such money shall be deposited in a separate bank or capital stock financial institution account or accounts. Such money shall be withdrawn only by check, draft, or order signed by the treasurer on requisition of the chairperson of the authority or of such other person or persons as the authority may authorize to make such requisitions, approved by the board. The chief auditing officer of the city and his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of such authority, including its receipts, disbursements, contracts, leases, sinking funds, and investments and any other matters relating to its financial standing. Notwithstanding the provisions of this section, such authority may contract with the holders of any of its bonds as to collection, custody, securing, investment, and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or in any way to secure bonds. The authority may carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. All banks, capital stock financial institutions, and trust companies are hereby authorized to give security for such deposits of money of authorities ~~as shall be required by law to secure the deposit of funds of cities pursuant to the Public Funds Deposit Security Act.~~ The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

Sec. 2. Section 3-616, Reissue Revised Statutes of Nebraska, is amended to read:

3-616. All income, revenue, receipts, profits, and money of an authority from whatever source derived shall be paid to the treasurer of the authority who shall not commingle such money with any other money under his or her control. Such money shall be deposited in a separate bank or capital stock financial institution account or accounts. Such money shall be withdrawn only by check, draft, or order signed by such treasurer on requisition of the chairperson of the authority or of such other person or persons as the authority may authorize to make such requisitions, approved by the board. The chief auditing officer of the county and his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of such authority, including its receipts, disbursements, contracts, leases, sinking funds, and investments and

any other matters relating to its financial standing. Notwithstanding the provisions of this section, such authority may contract with the holders of any of its bonds as to collection, custody, securing, investment, and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or in any way to secure bonds. The authority may carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. All banks, capital stock financial institutions, and trust companies are hereby authorized to give security for such deposits of money of authorities ~~as shall be required by law to secure the deposit of funds of counties pursuant to the Public Funds Deposit Security Act.~~ The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

Sec. 3. Section 3-709, Reissue Revised Statutes of Nebraska, is amended to read:

3-709. All income, revenue, receipts, profits, and money of a joint authority, from whatever source derived, shall be paid to the treasurer of the joint authority who shall not commingle such money with any other money under his or her control. Such money shall be deposited in a separate bank or capital stock financial institution account or accounts. Such money shall be withdrawn only by check, draft, or order signed by the treasurer on requisition of the chairperson of the joint authority or of such other person or persons as the joint authority may authorize to make such requisitions, approved by the board. Notwithstanding the provisions of this section, such joint authority may contract with the holders of any of its bonds as to collection, custody, securing, investment, and payment of any money of the joint authority or any money held in trust or otherwise for the payment of bonds or in any way to secure bonds. The joint authority may carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. All banks, capital stock financial institutions, and trust companies are hereby authorized to give security for such deposits of money of joint authorities ~~as shall be required by law to secure the deposit of public funds pursuant to the Public Funds Deposit Security Act.~~ The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

Sec. 4. Section 8-101.01, Revised Statutes Supplement, 1998, is amended to read:

8-101.01. Sections 8-101 to 8-1,139 and section 5 of this act shall be known and may be cited as the Nebraska Banking Act.

Sec. 5. Notwithstanding any of the other provisions of the Nebraska Banking Act or any other Nebraska statute, any bank incorporated under the laws of this state and organized under the provisions of the act, or under the laws of this state as they existed prior to May 9, 1933, shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of the effective date of this act, by a federally chartered bank doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such bank from payment of state taxes assessed under any applicable laws of this state.

Sec. 6. Section 8-112, Reissue Revised Statutes of Nebraska, is amended to read:

8-112. (1) The director shall keep, as records of his or her office, proper books showing all acts, matters, and things done under the jurisdiction of the department. Neither the director nor anyone connected with the department shall in any instance disclose the name of any depositor or debtor of any financial institution or other entity regulated by the department or the amount of his or her deposit or debt to anyone, except insofar as may be necessary in the performance of his or her official duty, except that the department may maintain a record of borrowers from the financial institutions in this state and may give information concerning the total liabilities of any such borrowers to any financial institution owning obligations of such borrowers.

(2) Examination reports, investigation reports, and documents and information relating to such reports are confidential records of the department and may be released or disclosed only (a) insofar as is necessary in the performance of the official duty of the department or (b) pursuant to a properly issued subpoena and upon entry of a protective order from a court of competent jurisdiction to protect and keep confidential the names of borrowers or depositors or to protect the public interest. If examination reports, investigation reports, or documents and information relating to such reports are subpoenaed from the department, the party issuing the subpoena shall give notice of the issuance of such subpoena at least three business days in advance of the entry of a protective order to the financial institution which is the subject of such reports or documents and information, unless the

financial institution is already a party to the underlying proceeding or unless such notice is otherwise prohibited by law or by court order.

Sec. 7. Section 8-141, Reissue Revised Statutes of Nebraska, is amended to read:

8-141. (1) No bank shall directly or indirectly loan to any single corporation, limited liability company, firm, or individual, including in such loans all loans made to the several members or shareholders of such firm, limited liability company, or corporation, for the use and benefit of such corporation, limited liability company, firm, or individual, more than twenty-five percent of the paid-up capital, surplus, and capital notes and debentures or fifteen percent of the unimpaired capital and unimpaired surplus of such bank, whichever is greater. ~~Such limitations limitation of twenty-five percent shall be subject to the following exceptions:~~

(a) Obligations of any person, partnership, limited liability company, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock, when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent of the face amount of the notes covered by such documents, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus;

(b) Obligations of any person, partnership, limited liability company, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus; or

(c) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by negotiable warehouse receipts in an amount not less than one hundred fifteen percent of the face amount of the note or notes secured by such documents shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus; or

(d) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, in an amount at least equal to the face amount of the note or notes secured by such collateral, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures or ten percent of such unimpaired capital and unimpaired surplus, whichever is greater, in addition to such twenty-five percent of such capital and surplus or such fifteen percent of such unimpaired capital and unimpaired surplus.

(2) For purposes of this section, the discounting of bills of exchange, drawn in good faith against actually existing values, and the discounting of commercial paper actually owned by the persons negotiating the same shall not be considered as the lending of money. Loans or obligations shall not be subject to any limitation under this section, based upon such ~~capital stock~~ capital and surplus or such unimpaired capital and unimpaired surplus, to the extent that they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase the same, made by any federal reserve bank or by the United States Government or any authorized agency thereof, including any corporation wholly owned directly or indirectly by the United States, or general obligations of any state of the United States or any political subdivision thereof. The phrase general obligation of any state or any political subdivision thereof ~~shall mean~~ means an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation, but ~~shall does~~ does not include municipal revenue bonds and sanitary and improvement district warrants which ~~shall be~~ are subject to the limitations set forth in this section. Any bank may subscribe to, invest in, purchase, and own single-family mortgages secured by

the Federal Housing Administration or the United States Department of Veterans Affairs and mortgage-backed certificates of the Government National Mortgage Association which are guaranteed as to payment of principal and interest by the Government National Mortgage Association. Such mortgages and certificates shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus. Obligations representing loans to any national banking association or to any banking institution organized under the laws of any state, when such loans are approved by the Director of Banking and Finance by regulation or otherwise, shall not be subject under this section to any limitation based upon such capital and surplus or such unimpaired capital and unimpaired surplus. Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject under this section to any limitation based on such capital and surplus or such unimpaired capital and unimpaired surplus. The department may adopt and promulgate rules and regulations governing the terms and conditions of such security interest and segregated deposit account. For the purpose of determining lending limits, partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every partnership in which he or she is a partner, except that for purposes of this section (a) an individual shall only be charged with the debt of any limited partnership in which he or she is a partner to the extent that the terms of the limited partnership agreement provide that such individual is to be held liable for the debts or actions of such limited partnership and (b) no individual shall be charged with the debt of any general partnership in which he or she is a partner beyond the extent to which (i) his or her liability for such partnership debt is limited by the terms of a contract or other written agreement between the bank and such individual and (ii) any personal debt of such individual is incurred for the use and benefit of such general partnership.

(3) A loan made within lending limits at the initial time the loan was made may be renewed, extended, or serviced without regard to changes in the lending limit of a bank following the initial extension of the loan if (a) the renewal, extension, or servicing of the loan does not result in the extension of funds beyond the initial amount of the loan or (b) the accrued interest on the loan is not added to the original amount of the loan in the process of renewal, extension, or servicing.

(4) Any bank may purchase or take an interest in life insurance contracts for any purpose incidental to the business of banking. A bank's purchase of any life insurance contract, as measured by its cash surrender value, from any one life insurance company shall not at any time exceed twenty-five percent of the paid-up capital, surplus, and capital notes and debentures of such bank or fifteen percent of the paid-up capital, surplus, undivided profits, and capital notes and debentures of such bank, whichever is greater. A bank's purchase of life insurance contracts, as measured by their cash surrender values, in the aggregate from all life insurance companies shall not at any time exceed thirty-five percent of the paid-up capital, surplus, undivided profits, and capital notes and debentures of such bank. The limitations under this subsection on a bank's purchase of life insurance contracts, in the aggregate from all life insurance companies, shall not apply to any contract purchased prior to April 5, 1994.

(5) For purposes of this section, unimpaired capital and unimpaired surplus means (a) the bank's tier 1 and tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), and (b) the balance of the bank's allowance for loan and lease losses not included in the bank's tier 2 capital for purposes of the calculation of risk-based capital by the appropriate federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3).

Sec. 8. Section 8-143.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-143.01. (1) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the higher of twenty-five thousand dollars or five percent of the bank's unimpaired capital and unimpaired surplus unless (a) the extension of credit has been approved in advance by a majority vote of the entire board of directors of the bank, a record of which shall be made and kept as a part of the records of such bank, and (b) the interested party has abstained from participating directly or indirectly in such vote.

(2) No bank shall extend credit to any of its executive officers,

directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds five hundred thousand dollars except by complying with the requirements of subdivisions (1)(a) and (b) of this section.

(3) No bank shall extend credit to any of its executive officers licensed pursuant to section 8-139, and no such executive officer shall borrow from or otherwise become indebted to his or her bank, except in the amounts and for the purposes set forth in subsection (4) of this section.

(4) A bank shall be authorized to extend credit to any of its executive officers licensed pursuant to section 8-139:

(a) In any amount to finance the education of such executive officer's children;

(b)(i) In any amount to finance or refinance the purchase, construction, maintenance, or improvement of a residence of such executive officer if the extension of credit is secured by a first lien on the residence and the residence is owned or is expected to be owned after the extension of credit by the executive officer and (ii) in the case of a refinancing, only the amount of the refinancing used to repay the original extension of credit, together with the closing costs of the refinancing, and any additional amount thereof used for any of the purposes enumerated in this subdivision are included within this category of credit;

(c) In any amount if the extension of credit is (i) secured by a perfected security interest in bonds, notes, certificates of indebtedness, or Treasury Bills of the United States or in other such obligations fully guaranteed as to principal and interest by the United States, (ii) secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States, or (iii) secured by a perfected security interest in a segregated deposit account in the lending bank; or

(d) For any other purpose not specified in subdivisions (a), (b), and (c) of this subsection if the aggregate amount of such other extensions of credit to such executive officer does not exceed, at any one time, the greater of two and one-half percent of the bank's unimpaired capital and unimpaired surplus or twenty-five thousand dollars, but in no event greater than one hundred thousand dollars or the amount of the bank's lending limit as prescribed in section 8-141, whichever is less.

(5) Any executive officer licensed pursuant to section 8-139, unless such officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating in the major policymaking functions of the bank and does not actually participate in the major policymaking functions of the bank, who becomes indebted to any other financial institution or institutions shall, by the next regularly scheduled meeting of the board of directors, make a written report to the board of directors of the bank of which he or she is an executive officer stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used.

(6) No bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person and to all related interests of that person, exceeds the lending limit of the bank as prescribed in section 8-141 or 12 U.S.C. 84, whichever is less.

(7)(a) Except as provided in subdivision (b) of this subsection, no bank shall extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of such persons unless the extension of credit (i) is made on substantially the same terms, including interest rates and collateral, as, and following credit-underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this section and who are not employed by the bank and (ii) does not involve more than the normal risk of repayment or present other unfavorable features.

(b) Nothing in subdivision (a) of this subsection shall prohibit any extension of credit made by a bank pursuant to a benefit or compensation program under the provisions of 12 C.F.R. 215.4(a)(2).

(8) For purposes of this section:

(a) Executive officer shall mean a person who participates or has authority to participate, other than in the capacity of director, in the major policymaking functions of the bank, whether or not the officer has an official title, the title designates such officer as an assistant, or such officer is serving without salary or other compensation. Executive officer shall include

the chairperson of the board of directors, the president, all vice presidents, the cashier, the corporate secretary, and the treasurer, unless the executive officer is excluded by a resolution of the board of directors or by the bylaws of the bank from participating, other than in the capacity of director, in the major policymaking functions of the bank, and the executive officer does not actually participate in such functions. A manager or assistant manager of a branch of a bank shall not be considered to be an executive officer unless such individual participates or is authorized to participate in the major policymaking functions of the bank; and

(b) Unimpaired capital and unimpaired surplus shall mean the sum of:

(i) The total equity capital of the bank reported on its most recent consolidated report of condition filed under section 8-166;

(ii) Any subordinated notes and debentures approved as an addition to the bank's capital structure by the appropriate federal banking agency; and

(iii) Any valuation reserves created by charges to the bank's income reported on its most recent consolidated report of condition filed under section 8-166.

(9) Any executive officer, director, or principal shareholder of a bank or any other person who intentionally violates this section or who aids, abets, or assists in a violation of this section shall be guilty of a Class IV felony.

(10) The Director of Banking and Finance shall have authority to adopt and promulgate rules and regulations to implement this section, including rules or regulations defining or further defining terms used in this section, consistent with the provisions of 12 U.S.C. 84 and implementing Regulation O.

Sec. 9. Section 8-157.01, Reissue Revised Statutes of Nebraska, is amended to read:

8-157.01. (1) ~~With the approval of~~ Upon prior written notice to the director, any financial institution which has a main chartered office or approved branch office located in the State of Nebraska may establish and maintain any number of automatic teller machines at which all banking transactions, defined as receiving deposits of every kind and nature and crediting such to customer accounts, cashing checks and cash withdrawals, transfer of funds from checking accounts to savings accounts, transfer of funds from savings accounts to checking accounts, transfer of funds from either checking accounts and savings accounts to accounts of other customers, payment transfers from customer accounts into accounts maintained by other customers of the financial institution or the financial institution, including preauthorized draft authority, preauthorized loans, and credit transactions, receiving payments payable at the financial institution or otherwise, and account balance inquiry, and such other transactions that the director upon application, notice, and hearing may approve, may be conducted. Any other transaction incidental to the business of the financial institution or which will provide a benefit to the financial institution's customers or the general public may be conducted at an automatic teller machine upon thirty days' prior written notice to the director if the director does not object to the proposed other transaction within the thirty-day notice period. Neither such automatic teller machines nor the transactions conducted thereat shall be construed as the establishment of a branch bank or as branch banking. Such automatic teller machines shall be made available on a nondiscriminating basis for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution. It shall not be deemed discrimination if an automatic teller machine does not offer the same transaction services as other automatic teller machines or if there are no fees charged between affiliate financial institutions for the use of automatic teller machines.

(2) Any financial institution may become a user financial institution by agreeing to pay the establishing financial institution its automatic teller machine usage fee. Such agreement shall be implied by the use of such automatic teller machines. Nothing in this subsection shall prohibit a user financial institution from agreeing to responsibilities and benefits which might be contained in a standardized agreement. ~~The establishing financial institution shall file with the director the information necessary to originate a transaction at any automatic teller machine. Such information shall contain a means of designating the financial institution or data processing center to which such transactions shall be switched and shall also contain information adequate to perform authorization of cash withdrawal and other transactions authorized by this section. The director shall make such information available to any other financial institution desiring to become a user financial institution. The establishing financial institution or its designated data processing center shall be~~

responsible for transmitting transactions originating from its automatic teller machine to a switch, but nothing contained in this section shall be construed to require routing of all transactions to a switch. ~~The director shall refuse to approve the establishment of any automatic teller machines unless such~~ All automatic teller machines will ~~must~~ be made available on a nondiscriminating basis, for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution, through methods, fees, and processes that the establishing financial institution has provided for switching transactions. ~~Once approval is given for the automatic teller machine of an establishing financial institution, the~~ The director, upon notice and after a hearing, may ~~revoke the approval for the automatic teller machine or may~~ terminate or suspend the use of ~~such any~~ automatic teller machine if he or she determines that it is not available on a nondiscriminating basis for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution, ~~that the necessary information is not on file with the director,~~ or that transactions originated by customers of user financial institutions are not being routed to a switch or other data processing centers. Nothing in this section may be construed to prohibit nonbank employees from assisting in transactions originated at the automatic teller machines, and such assistance shall not be deemed to be engaging in the business of banking. Such nonbank employees may be trained in the use of the automatic teller machines by financial institution employees.

(3) An establishing financial institution shall not be deemed to make an automatic teller machine available on a nondiscriminating basis if, through personnel services offered, advertising on or off the automatic teller machines premises, or otherwise, it discriminates in the use of the automatic teller machine against any user financial institution which has a main chartered office or approved branch office located in the State of Nebraska.

(4) A point-of-sale terminal may be established at any point within this state. A financial institution may contract with a seller of goods and services or any other third party for the operation of point-of-sale terminals. A point-of-sale terminal shall be made available on a nondiscriminating basis for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution. Nothing in this subsection shall prohibit payment of fees to a financial institution which issues an access device used to initiate electronic funds transfer transactions at a point-of-sale terminal.

(5) A seller of goods and services or any other third party on whose premises one or more point-of-sale terminals are established shall not be, solely by virtue of such establishment, a financial institution and shall not be subject to the laws governing, or other requirements imposed on, financial institutions, except for the requirement that it faithfully perform its obligations in connection with any transaction originated at any point-of-sale terminal on its premises. The acquiring financial institution shall be responsible for compliance with all applicable standards, rules, and regulations governing point-of-sale transactions.

(6) Any financial institution, upon a request of the director, shall file with the director a current listing of all point-of-sale terminals established by the financial institution within this state. For purposes of this subsection, point-of-sale terminal shall include a group of one or more of such terminals established at a single business location. Such listing shall contain any reasonable descriptive information pertaining to the point-of-sale terminal as required by the director. Neither the establishment of such point-of-sale terminal nor any transactions conducted thereat shall be construed as the establishment of a branch bank or as branch banking. Following establishment of a point-of-sale terminal, the director, upon notice and after a hearing, may terminate or suspend the use of such point-of-sale terminal if he or she determines that it is not made available on a nondiscriminating basis for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution, that the necessary information is not on file with the director, or that transactions originated by customers of user financial institutions are not being routed to a switch or other data processing center. Nothing in this section shall be construed to prohibit nonbank employees from assisting in transactions originated at the point-of-sale terminals, and such assistance shall not be deemed to be engaging in the business of banking.

(7) Transactions at point-of-sale terminals may include:

(a) Check guarantees;
 (b) Account balance inquiries;
 (c) Transfers of funds from a customer's account for payment to a seller's account for goods and services on whose premises the point-of-sale terminal is located in payment for the goods and services;
 (d) Cash withdrawals by a customer from the customer's account or accounts;

(e) Transfers between accounts of the same customers at the same financial institution; and

(f) Such other transactions as the director, upon application, notice, and hearing, may approve.

(8) Automatic teller machines may be established and maintained by a financial institution which has a main chartered office or approved branch office located in the State of Nebraska, by a group of two or more of such financial institutions, or by a combination of such financial institution or financial institutions and a third party. Point-of-sale terminals may be established and maintained by a financial institution, by a group of two or more financial institutions, or by a combination of a financial institution or financial institutions and a third party. No one, through personnel services offered, advertising on or off the point-of-sale terminal premises, or otherwise, may discriminate in the use of the point-of-sale terminal against any other user financial institution.

(9) All financial institutions shall be given an equal opportunity for the use of and access to a switch, and no discrimination shall exist or preferential treatment be given in either the operation of such switch or the charges for use thereof. The operation of such switch shall be with the approval of the director. Approval of such switch shall be given by the director when he or she determines that its design and operation are such as to provide access thereto and use thereof by any financial institution without discrimination as to access or cost of its use. Any switch established in Nebraska and approved by the director prior to January 1, 1993, shall be deemed to be approved for purposes of this section.

(10) Use of an automatic teller machine or a point-of-sale terminal through access to a switch and use of any switch shall be made available on a nondiscriminating basis to any financial institution. A financial institution shall only be permitted use of the switch if the financial institution conforms to reasonable technical operating standards which have been established by the switch.

(11) To assure maximum safety and security against malfunction, fraud, theft, and other accidents or abuses and to assure that all such access devices will have the capability of activating all automatic teller machines and point-of-sale terminals established in this state, no automatic teller machine or point-of-sale terminal shall accept an access device which does not conform to such specifications as are generally accepted. No automatic teller machine or point-of-sale terminal shall be established or operated which does not accept an access device which conforms with such specifications.

An automatic teller machine shall bear a logo type or other identification symbol designed to advise customers that the automatic teller machine may be activated by any access device which complies with the generally accepted specifications. A point-of-sale terminal shall either bear or the premises on which the point-of-sale terminal is established shall contain a visible logo type or other identification symbol designed to advise customers that the point-of-sale terminal may be activated by any access device which complies with the generally accepted specifications. An automatic teller machine or point-of-sale terminal may also bear, at the option of the establishing or acquiring financial institution, any of the following:

(a) The names of all individual financial institutions using such automatic teller machines or point-of-sale terminals in alphabetical order, except that the establishing or acquiring financial institution may be listed first, and in a uniform typeface, size, and color; or

(b) The logo type or symbol of any association, corporation, or other entity or organization formed by one or more of the financial institutions using such automatic teller machines or point-of-sale terminals.

(12) If the director, upon notice and hearing, determines at any time that the design or operation of a switch or provision for use thereof does discriminate against any financial institution in providing access thereto and use thereof either through access thereto or by virtue of the cost of its use, he or she may revoke his or her approval of such switch operation and immediately order the discontinuance of the operation of such switch.

(13) If it is determined by the director, after notice and hearing, that discrimination against any financial institution has taken place, that

one financial institution has been preferred over another, or that any financial institution or person has not complied with any of the provisions of this section, he or she shall immediately issue a cease and desist order or an order for compliance within ten days ~~from~~ after the date of the order, and upon noncompliance with such order, the offending financial institution shall be subject to sections 8-1,135 to 8-1,138 and to having the privileges granted in this section revoked.

(14) For purposes of this section:

(a) Access shall mean the ability to utilize an automatic teller machine or a point-of-sale terminal to conduct permitted banking transactions or purchase goods and services electronically;

(b) Access device shall mean a code, a transaction card, or any other means of access to a customer's account, or any combination thereof, that may be used by a customer for the purpose of initiating an electronic funds transfer at an automatic teller machine or a point-of-sale terminal;

(c) Account shall mean a checking account, a savings account, a share account, or any other customer asset account held by a financial institution. Such an account may also include a line of credit which a financial institution has agreed to extend to its customer;

(d) Acquiring financial institution shall mean any financial institution establishing a point-of-sale terminal;

(e) Affiliate financial institution shall mean any financial institution which is a subsidiary of the same bank holding company;

(f) Electronic funds transfer shall mean any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through a point-of-sale terminal, an automatic teller machine, or a personal terminal for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account;

(g) Establishing financial institution shall mean any financial institution establishing an automatic teller machine which has a main chartered office or approved branch office located in the State of Nebraska;

(h) Financial institution shall mean a state-chartered or federally chartered bank, savings bank, building and loan association, savings and loan association, industrial loan and investment company, or credit union;

(i) Personal identification number shall mean a combination of numerals or letters selected for a customer of a financial institution, a merchant, or any other third party which is used in conjunction with an access device to initiate an electronic funds transfer transaction;

(j) Personal terminal shall mean a personal computer and telephone, wherever located, operated by a customer of a financial institution for the purpose of initiating a transaction affecting an account of the customer; and

(k) User financial institution shall mean any financial institution which desires to avail itself of and provide its customers with automatic teller machine or point-of-sale terminal services.

(15) Nothing in this section shall prohibit ordinary clearinghouse transactions between financial institutions.

(16) Nothing in this section shall require any federally chartered establishing financial institution to obtain the approval of the director for the establishment of any automatic teller machine.

(17) Nothing in this section shall prevent any financial institution which has a main chartered office or an approved branch office located in the State of Nebraska from participating in a national automatic teller machine program to allow its customers to use automatic teller machines located outside of the State of Nebraska which are established by out-of-state financial institutions or to allow customers of out-of-state financial institutions to use its automatic teller machines located in the State of Nebraska. Such participation and any automatic teller machine usage fees charged or received pursuant to the national automatic teller machine program shall not be considered for purposes of determining if an automatic teller machine located in the State of Nebraska has been made available on a nondiscriminating basis for use by customers of any financial institution which has a main chartered office or approved branch office located in the State of Nebraska which becomes a user financial institution.

Sec. 10. Section 8-170, Reissue Revised Statutes of Nebraska, is amended to read:

8-170. (1) Banks shall not be required to preserve or keep their records or files for a longer period than six years next after the first day of January of the year following the time of the making or filing of such records or files, ~~except that ledger as provided in subsection (2) of this section.~~

(2)(a) Ledger sheets showing unpaid balances in favor of depositors

of ~~such~~ banks shall not be destroyed unless the bank has remitted such unpaid balances to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act. Banks shall retain a record of every such remittance for ten years following the date of such remittance.

(b) ~~Corporate and corporate~~ records that relate to the corporation or the corporate existence of the bank shall not be destroyed.

Sec. 11. Section 8-1,131, Reissue Revised Statutes of Nebraska, is amended to read:

8-1,131. (1) All banks chartered under the laws of Nebraska are qualified to act as trustee or custodian within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the bank or in other banks. If any such retirement plan, within the judgment of the bank, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code and the regulations promulgated thereunder at the time the trust was established and accepted by the bank, and is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the bank may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No bank, in respect to savings made under this ~~section subsection~~, shall be required to segregate such savings from other ~~assets~~ liabilities of the bank. The bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subsection.

(2) All banks chartered under the laws of Nebraska are qualified to act as trustee or custodian of a medical savings account created within the provisions of section 220 of the Internal Revenue Code. If any such medical savings account, within the judgment of the bank, constitutes a medical savings account under section 220 of the Internal Revenue Code and the regulations promulgated thereunder at the time the trust was established and accepted by the bank, and is subsequently determined not to be such a medical savings account, in whole or in part, the bank may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the account holder. No bank, in respect to savings made under this ~~section subsection~~, shall be required to segregate such savings from other ~~assets~~ liabilities of the bank. The bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subsection.

Sec. 12. Section 8-355, Revised Statutes Supplement, 1998, is amended to read:

8-355. Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of ~~April 19, 1998~~ the effective date of this act, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Sec. 13. Section 8-602, Revised Statutes Supplement, 1998, is amended to read:

8-602. The Director of Banking and Finance shall charge and collect fees for certain services rendered by the Department of Banking and Finance according to the following schedule:

(1) For filing and examining articles of incorporation, association, and bylaws, except cooperative credit associations and credit unions, one hundred dollars, and for cooperative credit associations and credit unions, fifty dollars;

(2) For filing and examining an amendment to articles of incorporation, association, and bylaws, except cooperative credit associations and credit unions, fifty dollars, for cooperative credit associations, twenty-five dollars, and for credit unions, fifteen dollars;

(3) For issuing to banks, trust companies, building and loan associations, and industrial loan and investment companies a charter, authority, or license to do business in this state, a sum which shall be determined on the basis of one dollar and fifty cents for each one thousand dollars of authorized capital, except that the minimum fee in each case shall be two hundred twenty-five dollars, and all foreign building and loan associations shall pay annually a fee of two hundred dollars;

(4) For issuing to cooperative credit associations a charter, authority, or license to do business in this state, twenty-five dollars;

(5) For issuing an executive officer's or loan officer's license, fifty dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter, except cooperative credit associations and credit unions for which the fee shall be twenty-five dollars at the time of the initial license and fifteen dollars on or before January 15 each year thereafter;

(6) For affixing certificate and seal, five dollars;

(7) For making a photostatic copy of instruments, documents, or any other departmental records and for providing a computer-generated document, one dollar and fifty cents per page;

(8) For making substitution of securities held by it and issuing a receipt, fifteen dollars;

(9) For issuing a certificate of approval to a credit union, ten dollars;

(10) For investigating the applications required by sections 8-120, 8-331, and 8-403 and the documents required by sections 8-201, 21-1312, and 21-1313, the cost of such examination, investigation, and inspection, including all legal expenses and the cost of any hearing transcript, with a minimum fee under (a) section 8-120 of two thousand five hundred dollars, (b) section 8-331 of two thousand dollars, (c) section 8-403 of two thousand five hundred dollars, and (d) sections 8-201, 21-1312, and 21-1313 of one thousand dollars. The department may require the applicant to procure and give a surety bond in such principal amount as the department may determine and conditioned for the payment of the fees provided in this subdivision;

(11) For registering a statement of intention to engage in the business of making personal loans pursuant to section 8-816, fifty dollars;

(12) To meet the expense of safekeeping securities as provided in section 8-210, the company, national bank, federal savings association, federally chartered trust company, out-of-state trust company authorized under the Interstate Trust Company Office Act, or state-chartered bank shall, at the time of the initial deposit of such securities, pay one dollar and fifty cents for each thousand dollars of securities deposited and a like amount on or before January 15 each year thereafter;

(13) For investigating an application to move its location within the city or village limits of its original license or charter for banks, trust companies, building and loan associations, and industrial loan and investment companies, two hundred fifty dollars;

(14) For investigating an application for approval to establish or acquire a detached branch bank pursuant to section 8-157, two hundred fifty dollars;

(15) ~~For investigating an application for approval of an automatic teller machine, fifteen dollars;~~ For filing a notice to establish an automatic teller machine, fifteen dollars;

(16) For investigating a notice of acquisition of control under subsection (1) of section 8-1502, five hundred dollars;

(17) For investigating an application for a cross-industry merger under section 8-1510, five hundred dollars;

(18) For investigating an application for a merger of two state banks or a merger of a state bank and a national bank in which the state bank is the surviving entity, five hundred dollars;

(19) For investigating an application for a purchase of an eligible savings association under section 8-1515, five hundred dollars;

(20) For investigating an application or a notice to establish a branch trust office, five hundred dollars; and

(21) For investigating an application or a notice to establish a representative trust office, five hundred dollars.

All fees and money collected by or paid to the department under any of the provisions of Chapter 8, 21, or 45 or any other law shall, if and when specifically appropriated by the Legislature during any biennium, constitute the Financial Institution Assessment Cash Fund for the use of the department during any biennium in administering the provisions of such chapters and any duties imposed upon the department by any other law, and all of such money when appropriated shall be appropriated for the purposes expressed in this section.

Sec. 14. Section 8-1504, Reissue Revised Statutes of Nebraska, is amended to read:

8-1504. Except as otherwise provided by rule and regulation of the department, a notice filed pursuant to section 8-1502 shall contain the following information:

(1) The identity, personal history, business background, and

experience of each person by whom or on whose behalf the acquisition is to be made, including his or her material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he or she is a party and any criminal indictment or conviction of such person by a state or federal court;

(2) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five years immediately preceding the date of the notice; together with related statements of income, source, and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income, source, and application of funds as of a date not more than ninety days prior to the date of the filing of the notice;

(3) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made;

(4) The identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons;

(5) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, trust company, or industrial loan and investment company, to sell its assets or merge it with any company, or to make any other major change in its business or corporate structure or management;

(6) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his or her behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation;

(7) Copies of all invitations, tenders, or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition; and

(8) Any additional relevant information in such form as the Director of Banking and Finance may require by rule and regulation or by specific request in connection with any particular notice.

Sec. 15. Section 8-1601, Reissue Revised Statutes of Nebraska, is amended to read:

8-1601. ~~As used in~~ For purposes of sections 8-1601 to 8-1605, unless the context otherwise requires:

(1) Banker's bank ~~shall mean~~ means a bank formed pursuant to section 8-1602; ~~and~~

(2) Department ~~shall mean~~ means the Department of Banking and Finance;

(3) Foreign banker's bank means a bank which is chartered in a foreign state and which is:

(a) Insured by the Federal Deposit Insurance Corporation;

(b) Owned substantially by banks in the state in which the bank was chartered; and

(c) Directly and through its subsidiaries engaged exclusively in providing services for other banks and their officers, directors, and employees;

(4) Foreign state means any state of the United States other than the State of Nebraska, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the District of Columbia; and

(5) Owned substantially means at least eighty percent of the outstanding voting stock is owned.

Sec. 16. Section 8-1602, Revised Statutes Supplement, 1998, is amended to read:

8-1602. A banker's bank may be formed with the approval of the department and subject to requirements and procedures for the issuance of a new bank charter or the transfer of an existing bank charter as provided in the Nebraska Banking Act. A banker's bank shall be a bank which is:

(1) Insured by the Federal Deposit Insurance Corporation;

(2) Owned ~~exclusively~~ substantially by other Nebraska banks; ~~except to the extent directors' qualifying shares are required by law; and~~

(3) Directly and through all its subsidiaries engaged exclusively in providing services for other banks and their officers, directors, and employees.

Sec. 17. Section 8-1605, Reissue Revised Statutes of Nebraska, is amended to read:

8-1605. A bank may ~~not~~ subscribe to, invest in, buy, or own ~~more than five percent of any class of~~ voting stock of one or more banker's banks and foreign banker's banks in an amount not to exceed five percent of any class of voting stock of each such banker's bank or foreign banker's bank. In a banker's bank, and in no event may shall such bank's holdings of the stock of a banker's bank and a foreign banker's bank exceed ten percent of the capital stock and paid-in and unimpaired surplus of the bank holding such stock.

Sec. 18. Section 13-1305, Reissue Revised Statutes of Nebraska, is amended to read:

13-1305. All taxes or other receipts, income, revenue, profits, and money of a commission from whatever source derived shall be paid to the treasurer of the county in which such commission is established as ex officio treasurer of the commission, who shall not commingle such money with any other money under his or her control. Such money shall be deposited in a separate bank or capital stock financial institution account or accounts and shall be withdrawn only by check, draft, or order signed by the treasurer on requisition of the chairperson of the board of the commission or of such other person or persons as the commission may authorize to make such requisition, approved by the board. The chief auditing officer of the county and his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of such commission, including its receipts, disbursements, contracts, leases, sinking funds, and investments and any other matters relating to its financial standing. Notwithstanding the provisions of this section, the board may contract with the holders of any of its bonds as to the collection, custody, securing, investment, and payment of any money of the commission or money held in trust or otherwise for the payment of bonds or in any way to secure bonds. The board may carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. All banks, capital stock financial institutions, and trust companies are hereby authorized to give security for such deposits of money of the commission ~~as shall be required by law to secure the deposit of funds of counties pursuant to the Public Funds Deposit Security Act.~~ The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

Sec. 19. Section 18-2102.01, Reissue Revised Statutes of Nebraska, is amended to read:

18-2102.01. Cities of all classes and villages of this state are hereby granted power and authority to create community redevelopment authorities and limited community redevelopment authorities.

(1) Whenever an authority or limited authority is created it shall bear the name of the city creating it and shall be legally known as the Community Redevelopment Authority of the City (or Village) of (name of city or village) or the Limited Community Redevelopment Authority of the City (or Village) of (name of city or village).

(2) When it is determined by the governing body of any city by ordinance in the exercise of its discretion that it is expedient to create a community redevelopment authority or limited community redevelopment authority, the mayor of the city or, if the mayor shall fail to act within ninety days after the passage of the ordinance, the president or other presiding officer other than the mayor of the governing body, with the approval of the governing body of the city, shall appoint five persons who shall constitute the authority or the limited authority. The terms of office of the members of the authority initially appointed shall be for one year, two years, three years, four years, and five years, as designated by the mayor, president, other presiding officer, or city manager in making the respective appointments. As the terms of the members of the authority expire in cities not having the city manager form of government, the mayor, with the approval of the governing body of the city, shall appoint or reappoint a member of the authority for a term of five years to succeed the member whose term expires. In cities having the city manager form of government, the city manager shall appoint or reappoint the members with the approval of the governing body. The terms of office of the members of a limited community redevelopment authority shall be for the duration of only one single specific limited pilot project authorized in the ordinance creating the limited community redevelopment authority, and the terms of the members of a limited community redevelopment authority shall expire upon the completion of the single specific limited pilot project authorized in the ordinance creating the limited community redevelopment authority. A governing body may at its option submit an ordinance which creates a community redevelopment authority or a limited

community redevelopment authority to the electors of the city for approval by a majority vote of the electors voting on the ordinance. On submitting the ordinance for approval, the governing body is authorized to call, by the ordinance, a special or general election and to submit, after thirty days' notice of the time and place of holding the election and according to the manner and method otherwise provided by law for the calling, conducting, canvassing, and certifying of the result of city elections on the submission of propositions to the electors, the proposition to be stated on the ballot as follows:

Shall the City (or Village) of (name of city or village) create a Community Redevelopment Authority of the City (or Village) of (name of city or village)?

- ... Yes
- ... No.

When the ordinance submitted to the electors for approval by a majority vote of the electors voting on the ordinance is to create a limited community redevelopment authority the proposition shall be stated on the ballot as follows:

Shall the City (or Village) of (name of city or village) create a Limited Community Redevelopment Authority of the City (or Village) of (name of city or village)?

- ... Yes
- ... No.

Vacancies shall be filled for any unexpired term in the same manner as the original appointment. Members of the authority so appointed shall hold office until their successors have been appointed and qualified. Members of a limited authority shall hold office as provided in this section. All members of the authority shall serve without compensation, but shall be entitled to be reimbursed for all necessary expenses incurred.

(3) Any authority established under this section shall organize by electing one of its members chairperson and another vice-chairperson, shall have power to employ counsel, a director who shall be ex officio secretary of the authority, and such other officers and employees as may be desired, and shall fix the term of office, qualifications, and compensation of each. The holder of the office of community redevelopment administrator or coordinator of the city may, but need not, be appointed the director but at no additional compensation by the authority. Community redevelopment authorities of cities of the first and second class and villages may secure the services of a director, community redevelopment administrator, or coordinator, and other officers and employees as may be desired through contract with the Department of Economic Development upon terms which are mutually agreeable. Any authority established under this section may validly and effectively act on all matters requiring a resolution or other official action by a majority vote of its membership present at a meeting of the authority if a quorum of four is present. Orders, requisitions, warrants, and other documents may be executed by the chairperson or vice-chairperson or by or with others designated in its bylaws.

(4) No member or employee of any authority established under this section shall have any interest directly or indirectly in any contract for property, materials, or services to be required by such authority.

(5) The authority shall keep an accurate account of all its activities and of all receipts and disbursements and make an annual report of such activities, receipts, and disbursements to the governing body of the city.

(6) The governing body of a city creating a community redevelopment authority or a limited community redevelopment authority is hereby authorized to appropriate and loan to the authority a sum not exceeding ten thousand dollars for the purposes of paying expenses of organizing and supervising the work of the authority at the beginning of its activities. The loan shall be authorized by resolution of the governing body which shall set forth the terms and time of the repayment of the loan. The loan may be appropriated out of the general funds or any sinking fund.

(7) All income, revenue, profits, and other funds received by any authority established under this section from whatever source derived, or appropriated by the city, or realized from tax receipts or comprised in the special revenue fund of the city designated for the authority or from the proceeds of bonds, or otherwise, shall be deposited with the city treasurer as ex officio treasurer of the authority without commingling the money with any other money under his or her control and disbursed by him or her by check, draft, or order only upon warrants, orders, or requisitions by the chairperson of the authority or other person authorized by the authority which shall state distinctly the purpose for which the same are drawn. A permanent record shall

be kept by the authority of all warrants, orders, or requisitions so drawn, showing the date, amount, consideration, and to whom payable. When paid, the same shall be canceled and kept on file by the city treasurer. The books of any authority established under this section shall from time to time be audited upon the order of the governing body of the municipality in such manner as it may direct, and all books and records of the authority shall at all times be open to public inspection. The authority may contract with the holders of any of its bonds or notes as to collection, custody, securing investment, and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes. The authority may carry out the contract notwithstanding that such contract may be inconsistent with the previous provisions of this subdivision. All banks, capital stock financial institutions, and trust companies are hereby authorized to give security for the deposits of money of any authority established under the provisions of this section ~~as shall be required by law to secure the funds of cities pursuant to the Public Funds Deposit Security Act.~~ Section 77-2366 applies to deposits in capital stock financial institutions.

Sec. 20. Section 21-1729, Reissue Revised Statutes of Nebraska, is amended to read:

21-1729. (1) A credit union may change its principal place of business within this state upon written notice to, and approval by, the director.

(2) A credit union may maintain automatic teller machines and point-of-sale terminals, at locations other than its principal office ~~upon written notice to, and approval by, the director.~~ The director shall grant such approval only if he or she finds that such automatic teller machines and point-of-sale terminals are reasonably necessary in order for the credit union to furnish service to its members pursuant to section 8-157.01.

Sec. 21. Section 21-1737, Reissue Revised Statutes of Nebraska, is amended to read:

21-1737. (1) A credit union shall maintain all books, records, accounting systems, and procedures in accordance with the rules and regulations as the director from time to time may prescribe.

(2) Credit unions shall preserve or keep their records or files, or photographic or microphotographic copies thereof, for a period of not less than six years after the first day of January of the year following the time of the making or filing of such records or files, ~~except that ledger as provided in subsection (3) of this section.~~

(3)(a) ~~Ledger sheets showing unpaid balances in favor of members of such credit unions shall not be destroyed unless the credit union has remitted such unpaid balances to the State Treasurer in accordance with the Uniform Disposition of Unclaimed Property Act. Credit unions shall retain a record of every such remittance for ten years following the date of such remittance.~~

(b) ~~Corporate and corporate~~ records that relate to the corporation or the corporate existence of the credit union shall not be destroyed.

~~(3)~~ (4) A credit union shall not be liable for destroying records after the expiration of the record retention period provided in this section except for records involved in an official investigation or examination about which the credit union has received notice.

~~(4)~~ (5) A reproduction of any credit union records shall be admissible as evidence of transactions with the credit union as provided in section 25-12,112.

Sec. 22. Section 21-20,162, Reissue Revised Statutes of Nebraska, is amended to read:

21-20,162. ~~The~~ Except as provided in subdivision (2)(b) of this section, the court may dissolve a corporation:

(1) In a proceeding by the Attorney General if it is established that:

(a) The corporation obtained its articles of incorporation through fraud; or

(b) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(2)(a) In a proceeding by a shareholder if it is established that:

~~(a)~~ (i) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally because of the deadlock;

~~(b)~~ (ii) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

~~(e)~~ (iii) The shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired; or

~~(d)~~ (iv) The corporate assets are being misapplied or wasted.

(b) The right to bring a proceeding under this subdivision does not apply to shareholders of a bank, trust company, stock-owned savings and loan association, or industrial loan and investment company;

(3) In a proceeding by a creditor if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment has been returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

Sec. 23. Section 21-20,166, Reissue Revised Statutes of Nebraska, is amended to read:

21-20,166. (1) In a proceeding under subdivision (2) of section 21-20,162 to dissolve a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

(2) An election to purchase pursuant to this section may be filed with the court at any time within ninety days after the filing of the petition under subdivision (2) of section 21-20,162 or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within ten days thereafter, give written notice to all shareholders, other than the petitioner. The notice shall state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and shall advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate shall file notice of their intention to join in the purchase no later than thirty days after the effective date of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under subdivision (2) of section 21-20,162 may not be discontinued or settled, nor may the petitioning shareholder sell or otherwise dispose of his or her shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

(3) If, within sixty days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the court shall enter an order directing the purchase of the petitioner's shares upon the terms and conditions agreed to by the parties.

(4) If the parties are unable to reach an agreement as provided for in subsection (3) of this section, the court, upon application of any party, shall stay such proceedings and determine the fair value of the petitioner's shares as of the day before the date on which the petition under subdivision (2) of section 21-20,162 was filed or as of such other date as the court deems appropriate under the circumstances.

(5)(a) Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments when necessary in the interest of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court should attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes shall not participate in the purchase. Interest may be allowed at the rate specified in section 45-104, as such rate may from time to time be adjusted by the Legislature, and from the date

determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed.

(b) If the court finds that the petitioning shareholder had probable grounds for relief under subdivision ~~(2)(b)~~ ~~or (d)~~ (2)(a)(ii) or (iv) of section 21-20,162, it may award to the petitioning shareholder reasonable attorney's fees and expenses and fees and expenses of any experts employed by him or her.

(6) Upon entry of an order under subsection (3) or subdivision (5)(a) of this section, the court shall dismiss the petition to dissolve the corporation under section 21-20,162, and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded to him or her by the order of the court which shall be enforceable in the same manner as any other judgment.

(7) The purchase ordered pursuant to subdivision (5)(a) of this section shall be made within ten days after the date the order becomes final unless before that time the corporation files with the court a notice of its intention to adopt articles of dissolution pursuant to sections 21-20,152 and 21-20,153, which articles shall then be adopted and filed within fifty days thereafter. Upon the filing of such articles of dissolution the corporation shall be dissolved in accordance with the provisions of sections 21-20,155 to 21-20,157 and the order entered pursuant to subsection (5) of this section shall no longer be of any force or effect except that the court may award the petitioning shareholder reasonable fees and expenses in accordance with the provisions of subdivision (5)(b) of this section and the petitioner may continue to pursue any claims previously asserted on behalf of the corporation.

(8) Any payment by the corporation pursuant to an order under subsection (3) or (5) of this section, other than an award of fees and expenses pursuant to subsection (5) of this section, shall be subject to the provisions of section 21-2050.

Sec. 24. Section 45-101.04, Reissue Revised Statutes of Nebraska, is amended to read:

45-101.04. The limitation on the rate of interest provided in section 45-101.03 shall not apply to:

(1) Other rates of interest authorized for loans made by any licensee or permittee operating under a license or permit duly issued by the Department of Banking and Finance pursuant to the Credit Union Act, subsection (4) of section 8-319, or sections 8-401 to 8-417, 8-815 to 8-829, or 45-114 to 45-158;

(2) Loans made to any corporation, partnership, limited liability company, or trust;

(3) The guarantor or surety of any loan to a corporation, partnership, limited liability company, or trust;

(4) Loans made when the aggregate principal amount of the indebtedness is twenty-five thousand dollars or more of the borrower to any one financial institution, licensee, or permittee;

(5) Loans insured, guaranteed, sponsored, or participated in, either in whole or part, by any agency, department, or program of the United States or state government;

(6) Loans or advances of money, repayable on demand, which are made solely upon securities, as defined in subdivision (15) of section 8-1101, pledged as collateral for such repayment and in which such loans or advances are used by the borrower only for the purchase of securities as so defined. It shall be lawful to contract for and receive any rate of interest on such transaction as the parties thereto may expressly agree;

(7) Interest charges made on open credit accounts by a person who sells goods or services on credit when the interest charges do not exceed one and one-third percent per month for any charges which remain unpaid for more than thirty days following rendition of the statement of account;

(8) A minimum charge of ten dollars per loan which may be charged by the lender in lieu of all interest charges;

(9) Loans described in subsection (4) of section 8-319 made by a state or federal savings and loan association at a rate not to exceed nineteen percent per annum;

(10) Loans made primarily for business or agricultural purposes or secured by real estate when such loans are made (a) by a licensee, registrant, or permittee operating under a license, registration, or permit duly issued by the Department of Banking and Finance except for licensees operating under sections 45-114 to 45-158, (b) by any bank or savings and loan association chartered by the United States financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or

(c) by any insurance company organized under the laws of this state and subject to regulation by the Department of Insurance;

(11) Loans secured solely by real estate when such loans are (a) made by licensees operating under sections 45-114 to 45-158 and (b) made to finance or refinance the purchase of the property or construction on or improvements to the property, if the Department of Banking and Finance has the authority to examine such loans for compliance with sections 45-101.02 and 45-101.03. A licensee making a loan pursuant to this subdivision may obtain an interest in any fixtures attached to such real estate and any insurance proceeds payable in connection with such real estate or the loan;

(12) Loans secured by a reverse mortgage pursuant to section 45-1,116;

(13) Interest charges made on any goods or services sold under an installment contract pursuant to the Nebraska Installment Sales Act. Subject to section 45-338, it shall be lawful to contract for and receive any rate of interest on such contract as the parties may expressly agree to in writing; or

(14) Fees which may be charged by a licensee for services pursuant to the Delayed Deposit Services Licensing Act.

Sec. 25. Section 45-118, Reissue Revised Statutes of Nebraska, is amended to read:

45-118. ~~Every~~ (1) Except as provided in subsection (2) of this section, a hearing shall be held on every application for an original license under sections 45-114 to 45-158, every application for an original license shall be filed not less than thirty days prior to the date of hearing, and notice thereon. Notice of the filing of the application shall be published by the Department of Banking and Finance department three successive weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the business of lending money. The expense of the publication shall be paid by the applicant. Written protest against the issuance of the license may be filed with the department by any person not less than five days before the date set for hearing. The department, in its discretion, may grant a continuance. The Director of Banking and Finance shall have the power to reject any application for license after hearing. He or she shall, within his or her discretion, make examination and inspection concerning the propriety of the issuance of a license to any applicant. The cost of such examination and inspection shall be borne by the applicant.

(2) The director may waive the hearing requirements of subsection (1) of this section if (a) the applicant has held, and operated under, a license to engage in the business of lending money in Nebraska pursuant to sections 45-114 to 45-158 for at least one calendar year immediately prior to the filing of the application, (b) no written protest against the issuance of the license has been filed with the department within fifteen days after publication of a notice of the filing of the application one time in a newspaper of general circulation in the county where the applicant proposes to operate the business of lending money, and (c) in the judgment of the director, the experience, character, and general fitness of the applicant warrant the belief that the applicant will comply with sections 45-114 to 45-158.

Sec. 26. Section 45-121, Reissue Revised Statutes of Nebraska, is amended to read:

45-121. ~~The Department of Banking and Finance department shall approve or deny every application for license under section 45-120 within sixty ninety days from after the filing thereof, if such filing is accompanied by the required fees and the approved bond.~~

Sec. 27. Section 45-130, Reissue Revised Statutes of Nebraska, is amended to read:

45-130. (1) ~~The Department of Banking and Finance department~~ is hereby charged with the duty of inspecting the business, records, and accounts of all persons that lend money subject to the provisions of sections 45-114 to 45-158. The department may examine or investigate complaints about or reports of alleged violations by a licensee made to the department. The department is hereby empowered to inspect and investigate the business, records, and accounts of all persons in the public business of lending money contrary to the provisions of such sections and who do not have a license under such sections. The Director of Banking and Finance is hereby empowered to appoint examiners who shall, under his or her direction, investigate the loans and business and examine the books and records of licensees ~~semiannually~~ annually and more often when the director shall so determine. The expenses of the ~~Department of Banking and Finance department~~, incurred in the examination of the books and records of licensees, and fully to administer the provisions of the law during each calendar year, shall be charged ~~semiannually~~ annually to each licensee by the department as soon as reasonably possible after ~~June 30~~

and December 31 of each year the examination, in proportion to the number of days required to examine and supervise the books and records of the respective licensees.

(2) Upon receipt by a licensee of a notice of investigation or inquiry request for information from the department, the licensee shall respond within thirty calendar days. Each day a licensee fails to respond as required by this subsection shall constitute a separate violation.

(3) If the director finds, after notice and opportunity for hearing in accordance with the Administrative Procedure Act, that any person has willfully and intentionally violated subsection (2) of this section any provision of sections 45-114 to 45-158, any rule or regulation adopted and promulgated under such sections, or any order issued by the department under such sections, the director may order such person to pay (a) an administrative fine of not more than one thousand dollars for each separate violation and (b) the costs of investigation. All fines collected by the department pursuant to this subsection shall be remitted to the State Treasurer for credit to the permanent school fund.

(4) If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to subsection (3) of this section, a lien in the amount of such fine and costs may be imposed upon all assets and property of such person in this state and may be recovered in a civil action by the director. The lien shall attach to the real property of such person when notice of the lien is filed and indexed against the real property in the office of the register of deeds in the county where the real property is located. The lien shall attach to any other property of such person when notice of the lien is filed against the property in the manner prescribed by law. Failure of the person to pay such fine and costs shall constitute a separate violation of sections 45-114 to 45-158.

Sec. 28. Section 45-336, Reissue Revised Statutes of Nebraska, is amended to read:

45-336. (1) Each retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall contain the following items and a copy thereof shall be delivered to the buyer at the time the instrument is signed, except for contracts made in conformance with section 45-340: (a) The cash sale price; (b) the amount of the buyer's downpayment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of any goods traded in; (c) the difference between subdivisions (a) and (b) of this subsection; (d) the amount included for insurance if a separate charge is made therefor, specifying the types of coverages; (e) the basic time price, which is the sum of subdivisions (c) and (d) of this subsection; (f) the time-price differential; (g) the amount of the time-price balance, which is the sum of subdivisions (e) and (f) of this subsection, payable in installments by the buyer to the seller; (h) the number, amount, and due date or period of each installment; and (i) the time-sales price.

(2) The contract shall contain substantially the following notice: NOTICE TO THE BUYER. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS BLANK SPACES. YOU ARE ENTITLED TO A COPY OF THE CONTRACT YOU SIGN.

(3) The items listed in subsection (1) of this section need not be stated in the sequence or order set forth in such subsection. Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. No installment contract shall be signed by the buyer or proffered by seller when it contains blank spaces to be filled in after execution, except that if delivery of the goods or services is not made at the time of the execution of the contract, the identifying numbers or marks of the goods, or similar information, and the due date of the first installment may be inserted in the contract after its execution.

(4) If a seller proffers an installment contract as part of a transaction which delays or cancels, or promises to delay or cancel, the payment of the time-price differential on the contract if the buyer pays the basic time price, cash price, or cash sale price within a certain period of time, the seller shall, in clear and conspicuous writing, either within the installment contract or in a separate document, inform the buyer of the exact date by which the buyer must pay the basic time price, cash price, or cash sale price in order to delay or cancel the payment of the time-price differential. The seller or any subsequent purchaser of the installment contract, including a sales finance company, shall not be allowed to change such date.

(5) Upon written request from the buyer, the holder of an installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made

in cash.

~~(5)~~ (6) After payment of all sums for which the buyer is obligated under a contract, the holder shall deliver or mail to the buyer at his or her last-known address one or more good and sufficient instruments or copies thereof to acknowledge payment in full and shall release all security in the goods and mark canceled and return to the buyer the original agreement or copy thereof or instruments or copies thereof signed by the buyer. For purposes of this section, a copy shall meet the requirements of section 25-12,112.

Sec. 29. Section 45-351, Reissue Revised Statutes of Nebraska, is amended to read:

45-351. (1) The Department of Banking and Finance shall be charged with the duty of inspecting the business, records, and accounts of all persons who engage in the business of a sales finance company subject to the Nebraska Installment Sales Act. The director shall have the power to appoint examiners who shall, under his or her direction, investigate the installment contracts and business and examine the books and records of licensees when the director shall so determine. Such examinations shall not be conducted more often than annually except as provided in subsection (2) of this section.

(2) The director or his or her duly authorized representative shall have the power to make such investigations as he or she shall deem necessary and, to the extent necessary for this purpose, he or she may examine such licensee or any other person and shall have the power to compel the production of all relevant books, records, accounts, and documents.

(3) The expenses of the director incurred in the examination of the books and records of licensees, including the expenses of travel incurred in the examination of books and records of licensees located outside Nebraska, shall be charged to the licensees so examined by the director as soon as reasonably possible. Each licensee shall be billed by the director for the amount so charged to such licensee. If such charge is not paid within thirty days after the mailing of such bill, the license of such licensee may be suspended or revoked. The director may charge the costs of an investigation of a nonlicensed person to such person, and such costs shall be paid within thirty days after receipt of billing.

(4) Upon receipt by a licensee of a notice of investigation or inquiry request for information from the department, the licensee shall respond within thirty calendar days. Each day a licensee fails to respond as required by this subsection shall constitute a separate violation.

(5) If the director finds, after notice and opportunity for hearing in accordance with the Administrative Procedure Act, that any person has willfully and intentionally violated subsection (4) of this section any provision of the Nebraska Installment Sales Act, any rule or regulation adopted and promulgated under the act, or any order issued by the director under the act, the director may order such person to pay (a) an administrative fine of not more than one thousand dollars for each separate violation and (b) the costs of investigation. All fines collected by the department pursuant to this subsection shall be remitted to the State Treasurer for credit to the permanent school fund.

(6) If a person fails to pay an administrative fine and the costs of investigation ordered pursuant to subsection (5) of this section, a lien in the amount of such fine and costs may be imposed upon all assets and property of such person in this state and may be recovered in a civil action by the director. The lien shall attach to the real property of such person when notice of the lien is filed and indexed against the real property in the office of the register of deeds in the county where the real property is located. The lien shall attach to any other property of such person when notice of the lien is filed against the property in the manner prescribed by law. Failure of the person to pay such fine and costs shall constitute a separate violation of the Nebraska Installment Sales Act.

Sec. 30. Section 45-702, Reissue Revised Statutes of Nebraska, is amended to read:

45-702. For purposes of the Mortgage Bankers Registration and Licensing Act:

(1) Borrower means the mortgagor or mortgagors under a real estate mortgage or the trustor or trustors under a deed of trust;

(2) Department means the Department of Banking and Finance;

(3) Director means the Director of Banking and Finance;

(4) Financial institution means any person organized or chartered under the laws of this state, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, or credit unions. Financial institution also means an industrial loan and investment company chartered under the laws of this state or chartered under the laws of any other state and subject to similar

supervision and regulation as an industrial loan and investment company chartered under the laws of this state or installment loan licensees or similar associations organized under the laws of this state and subject to supervision by the department;

(5) Licensee means any person licensed under the act;

(6) Mortgage banker means any person not exempt under section 45-703 who, for compensation or gain or in the expectation of compensation or gain, directly or indirectly makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for ten or more mortgage loans in a calendar year;

(7) Mortgage banking business means any person who employs a mortgage banker or mortgage bankers or who directly or indirectly makes, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for ten or more mortgage loans in a calendar year for compensation or gain or in the expectation of compensation or gain;

(8) Mortgage loan means any loan or extension of credit secured by a lien on real property, including a refinancing of a contract of sale or an assumption or refinancing of a prior loan or extension of credit;

(9) Person means an association, joint venture, joint-stock company, partnership, limited partnership, limited liability company, business corporation, nonprofit corporation, individual, or any group of individuals however organized;

(10) Real property means an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state, which and is occupied, used, or intended to be occupied or used for residential purposes, and which is, or is intended to be, permanently affixed to the land;

(11) Registered bank holding company means any bank holding company registered with the department pursuant to the Nebraska Bank Holding Company Act of 1995;

(12) Registrant means a person registered pursuant to section 45-704; and

(13) Service means accepting payments or maintenance of escrow accounts in the regular course of business in connection with a mortgage loan.

Sec. 31. Section 45-703, Reissue Revised Statutes of Nebraska, is amended to read:

45-703. (1) Except as provided in section 45-704, the following shall be exempt from the Mortgage Bankers Registration and Licensing Act:

(a) Any financial institution; ~~which maintains a place of business within this state;~~

(b) Any registered bank holding company;

(c) Any insurance company organized under the laws of this state and subject to regulation by the Department of Insurance;

(d) Any person licensed to practice law in this state who is not actively and principally engaged in the business of negotiating mortgage loans when such person renders services in the regular course of his or her practice as an attorney at law;

(e) Any person licensed in this state as a real estate broker or real estate salesperson pursuant to section 81-885.02 who is not actively and principally engaged in the business of negotiating mortgage loans when such person renders services as a real estate broker or real estate salesperson;

(f) Any individual acting solely as an employee ~~or agent~~ of a mortgage banker licensed pursuant to the act;

(g) Any individual acting solely as an agent of a mortgage banker licensed pursuant to the act if there is a written agency contract between the individual and the licensee which provides that, with respect to the mortgage banking business, the individual acts exclusively for the licensee as an agent;

(h) Any holding company of a financial institution other than a registered bank holding company;

~~(h) Any financial institution which does not maintain a place of business within this state;~~

(i) Any wholly owned subsidiary of an organization listed in subdivisions (a) through (c) of this subsection if the listed organization maintains a place of business in Nebraska; and

(j) Any insurance company organized or chartered under the laws of any other state if the insurance company has a place of business in Nebraska.

(2) It shall not be necessary to negate any of the exemptions provided in this section in any complaint, information, indictment, or other writ or proceedings brought under the act, and the burden of establishing the right to any exemption shall be upon the person claiming the benefit of such

exemption.

Sec. 32. Section 45-704, Reissue Revised Statutes of Nebraska, is amended to read:

45-704. (1) Notwithstanding any other provision of the Mortgage Bankers Registration and Licensing Act, no person exempt from licensing under subdivisions ~~(1)(g)~~ (1)(h) through (1)(j) of section 45-703 shall act as a mortgage banker or engage in the mortgage banking business until such person has registered with the department.

(2) Any person required to register pursuant to subsection (1) of this section shall submit to the department a registration statement on forms provided by the department. The forms shall contain such information as the department may prescribe as necessary or appropriate, including, but not limited to, (a) all addresses at which business is to be conducted, (b) the names and titles of each director and principal officer of the business, and (c) a description of the activities of the applicant in such detail as the department may require.

(3) The registration statement required in subsection (2) of this section shall be accompanied by a registration fee of fifty dollars.

(4) The department shall acknowledge the registration by issuing to the registrant a receipt or other form of acknowledgment.

(5) A registration under this section shall not be assignable.

Sec. 33. Section 45-707, Reissue Revised Statutes of Nebraska, is amended to read:

45-707. (1) The director may, following a hearing under the Administrative Procedure Act, suspend or revoke any license issued pursuant to the Mortgage Bankers Registration and Licensing Act if the director finds any of the following:

(a) The licensee has materially violated or demonstrated a continuing pattern of violating the Mortgage Bankers Registration and Licensing Act or rules and regulations adopted and promulgated under the act or any other state or federal law applicable to the conduct of its business; or

(b) A fact or condition exists which, if it had existed at the time of the original application for the license, would have warranted the director to deny the application.

(2) Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing in accordance with the Administrative Procedure Act.

(3) A licensee may voluntarily surrender a license by delivering to the director written notice of the surrender, but a surrender shall not affect civil or criminal liability for acts committed before the surrender.

(4)(a) If a licensee fails to renew its license as required by section 45-706 and does not voluntarily surrender the license pursuant to subsection (3) of this section, the department may issue a notice of expiration of the license to the licensee in lieu of revocation proceedings.

(b) If a licensee fails to maintain a surety bond as required by section 45-709, the department may issue a notice of cancellation of the license in lieu of revocation proceedings. Expiration of a license shall not affect civil or criminal liability for acts committed before the expiration.

(5) Revocation, suspension, surrender, cancellation, or expiration of a license shall not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a borrower.

(6) Revocation, suspension, cancellation, or expiration of a license shall not affect civil or criminal liability for acts committed before the revocation, suspension, cancellation, or expiration.

Sec. 34. Section 45-708, Reissue Revised Statutes of Nebraska, is amended to read:

45-708. Any person required to be licensed or registered under the Mortgage Bankers Registration and Licensing Act who, without first obtaining a license or registration under the act or while such license is suspended, ~~or~~ revoked, canceled, or expired by the director, engages in the business of or occupation of, advertises or holds himself or herself out as, claims to be, or temporarily acts as a mortgage banker in this state ~~shall be~~ is guilty of a Class II misdemeanor.

Sec. 35. Section 46-1,141, Reissue Revised Statutes of Nebraska, is amended to read:

46-1,141. The depository receiving the deposit of funds of the district is hereby authorized to secure the deposit of such funds by a pledge of its assets giving security pursuant to the Public Funds Deposit Security Act, by depository bond, corporate in character, or by sufficient personal security when demanded by the board of directors of the district, such security to be approved by the board of directors of such irrigation district.

The provisions of section 77-2366 shall apply to deposits in capital stock financial institutions.

Sec. 36. Original sections 3-506, 3-616, 3-709, 8-112, 8-141, 8-143.01, 8-157.01, 8-170, 8-1,131, 8-1504, 8-1601, 8-1605, 13-1305, 18-2102.01, 21-1729, 21-1737, 21-20,162, 21-20,166, 45-101.04, 45-118, 45-121, 45-130, 45-336, 45-351, 45-702, 45-703, 45-704, 45-707, 45-708, and 46-1,141, Reissue Revised Statutes of Nebraska, and sections 8-101.01, 8-355, 8-602, and 8-1602, Revised Statutes Supplement, 1998, are repealed.

Sec. 37. Since an emergency exists, this act takes effect when passed and approved according to law.